

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

NO. 4:22-CV-42-FL

FIRST PROTECTIVE INSURANCE
COMPANY,

Plaintiff,

v.

LINDA STOKES RIKE; LEWIS
EDWARD O'LEARY; PROBUILDERS
OF THE CAROLINAS, INC.; WILLIAM
SCOTTE HEIDELBERG; HEIDELBERG
AND MULLENS, INC.; RONALD PAUL
HICKS; STORMPRO PUBLIC
ADJUSTERS, LLC,


Defendants.

ORDER

This matter is before the court on defendant Linda Stokes Rike's motion for entry of default (DE 38) and motion to strike answer to counterclaim (DE 45). Upon consideration of the motions and the record in this case, under the applicable standard, plaintiff has demonstrated "good cause" for its failure to file timely an answer to the counterclaim filed by defendant Linda Stokes Rike. Fed. R. Civ. P. 55(c). In making this determination, the court finds plaintiff has alleged a meritorious defense, has acted with reasonable promptness, does not have personal responsibility for default, and does not have history of dilatory action. In addition, sanctions less drastic than default are available. These factors outweigh the prejudice in delay asserted by plaintiff. See Colleton Preparatory Acad., Inc. v. Hoover Universal, Inc., 616 F.3d 413, 421 (4th Cir. 2010); Payne ex rel. Est. of Calzada v. Brake, 439 F.3d 198, 204–05 (4th Cir. 2006). Therefore, the

motions are DENIED, and the clerk is DIRECTED to enter an initial order upon the pleadings now framed.

SO ORDERED, this the 16th day of November, 2022.



LOUISE W. FLANAGAN
United States District Judge